

**REMARKS**

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-27 are pending. Claims 1, 10, 13, 16, 19, and 23 have been amended to recite that the ordered list by physical location is based on proximity of the remaining backup devices to the first backup device. Support for the amendments is believed to be found in at least paragraph 21 of the instant specification. New claims 26 and 27 have been added to secure an appropriate scope of protection to which Applicants are believed entitled.

Withdrawal of the objection to claims 1, 10, 13, 16, 19, and 23 is noted with appreciation.

Withdrawal of the rejection of claims 1-23 under 35 USC 103(a) in view of *Fermilab*, singly and in combination with *Kanai*, is noted with appreciation.

**Amended and unamended claims 1-9, 13-15, 19-22, and 24-25 are patentable over *Bolin et al.* (US 5,664,146) in view of *Jennings* ("Using Access 97")**

The rejection of claims 1-9, 13-15, and 19-22 under 35 USC 103(a) as being unpatentable over *Bolin* in view of *Jennings* is hereby traversed in view of the foregoing amendments.

*Bolin*, singly or in combination with *Jennings*, fails to disclose or suggest at least ordering the list based on proximity of the remaining backup devices of the at least two backup devices to the first backup device as claimed in amended claim 1. *Bolin* fails to disclose sorting, proximity or otherwise, with respect to either cartridges or backup devices. The PTO's assertion regarding sorting a column in ascending or descending

order notwithstanding, neither *Bolin* nor *Bolin* in combination with Jennings appears to disclose ordering of a list by physical location based on proximity of either cartridge or device. At least one possible result of sorting a column of *Bolin* would appear to be an alphabetical sorting of said column and not a sort based on proximity. For at least this additional reason, withdrawal of the rejection is respectfully requested.

Based on at least the foregoing, claim 1 is patentable over *Bolin* in view of *Jennings* and withdrawal of the rejection is respectfully requested. Claims 13 and 19 are patentable over *Bolin* in view of *Jennings* at least for reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claims 2-9, 14-15 and 20-22 depend respectively, either directly or indirectly, from claims 1, 13, and 19 include further features, and are patentable over *Bolin* in view of *Jennings* for at least the reasons advanced above with respect to claim 1. The rejection of claims 2-9, 14-15 and 20-22 should be withdrawn.

**Amended and unamended claims 10-12, 16-18, and 23 are patentable over *Bolin* in view of *Jennings* in view of *Kanai* (US Published Application 2002/0152181)**

The rejection of claims 10-12, 16-18, and 23 under 35 USC 103(a) as being unpatentable over *Bolin* in view of *Jennings* in view of *Kanai* is hereby traversed.

Amended and unamended claims 10-12, 16-18, and 23 are believed patentable over *Bolin* in view of *Jennings* and further in view of *Kanai* for at least reasons similar to those advanced above with respect to amended claim 1. *Kanai* fails to cure the above-noted deficiencies of *Bolin* and *Jennings* and withdrawal of the rejection is respectfully requested.

Based on each of the foregoing, claims 10-12, 16-18, and 23 are patentable over *Bolin* in view of *Jennings* and further in view of *Kanai* and withdrawal of the rejection is respectfully requested.

New claims 26 and 27 further define over the applied references and recite "assigning a global order number to a data center based on proximity of the data center to a first data center" and "ordering the list by an order number indicative of the proximity of a backup device to the first backup device" which are not believed to be found in the applied references.

Early issuance of a Notice of Allowance is courteously solicited.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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